

§ 19.907

27 CFR Ch. I (4–1–07 Edition)

§ 19.49(a)(3) when special tax stamps are not issued.

(b) *Exemption for small plants (effective July 1, 1989).* On and after July 1, 1989, paragraph (a) of this section shall not apply to small alcohol fuel plants as defined in § 19.907. If the annual production (including receipts) of a small plant exceeds 10,000 proof gallons in any calendar year, special tax is due as provided in § 19.49(a)(1) for the special tax year (July 1 through June 30) commencing during that calendar year, regardless of whether an application for change of plant type under § 19.921(a) has been filed or approved. If a medium or large plant produces 10,000 or fewer proof gallons (including receipts) in any calendar year, the plant shall be exempt from special tax under this paragraph, as for a small plant, for the special tax year (July 1 through June 30) commencing during that calendar year, regardless of whether an application under § 19.921(c) has been filed or approved.

(26 U.S.C. 5081)

[T.D. ATF-271, 53 FR 17543, May 17, 1988, as amended by T.D. ATF-285, 53 FR 12609, Mar. 28, 1989; T.D. ATF-312, 56 FR 31077, July 9, 1991; T.D. TTB-36, 70 FR 62243, Oct. 31, 2005]

DEFINITIONS

§ 19.907 Meaning of terms.

When used in this subpart, and in forms prescribed under this subpart, terms shall have the meaning given in this section. Words in the plural form include the singular and vice versa, and words indicating the masculine gender include the feminine. The terms “includes” and “including” do not exclude things not enumerated which are in the same general class.

Alcohol fuel plant or plant. An establishment qualified under this subpart solely for producing, processing and storing, and using or distributing distilled spirits to be used exclusively for fuel use.

Alcohol fuel producer's permit. The document issued pursuant to 26 U.S.C. 5181 authorizing the person named therein to engage in business as an alcohol fuel plant.

Bonded premises. The premises of an alcohol fuel plant where distilled spirits are produced, processed and stored,

and used or distributed. Premises of small alcohol fuel plants, which are exempt from bonding under § 19.912(b), shall be treated as bonded premises for purposes of this subpart.

CFR. The Code of Federal Regulations.

Fuel alcohol. Distilled spirits which have been rendered unfit for beverage use at an alcohol fuel plant as provided in this subpart.

Gallon or wine gallon. The liquid measure equivalent to the volume of 231 cubic inches.

Person. An individual, trust, estate, partnership, association, company or corporation.

Proof. The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

Proof gallon. A gallon of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof.

Proprietor. The person qualified under this subpart to operate the alcohol fuel plant.

Render unfit for beverage use. The addition to distilled spirits of materials which will not impair the quality of the spirits for fuel use as prescribed and authorized by the provisions of this subpart.

Secretary. The Secretary of the Treasury or his delegate.

Spirits or distilled spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine in any form (including all dilutions and mixtures thereof from whatever source or by whatever process produced), but not fuel alcohol unless specifically stated. For purposes of this subpart, the term does not include spirits produced from petroleum, natural gas, or coal.

This chapter. Title 27, Code of Federal Regulations, Chapter I [27 CFR Chapter I].

Transfer in bond. The transfer of spirits between alcohol fuel plants or the transfer of spirits to or from a distilled spirits plant qualified under 26 U.S.C. 5171 and an alcohol fuel plant.

Type of plant. The following three types of alcohol fuel plants are recognized in this subpart:

(a) *Small plant.* An alcohol fuel plant which produces (including receipts) not more than 10,000 proof gallons of spirits per calendar year.

(b) *Medium plant.* An alcohol fuel plant which produces (including receipts) more than 10,000 and not more than 500,000 proof gallons of spirits per calendar year.

(c) *Large plant.* An alcohol fuel plant which produces (including receipts) more than 500,000 proof gallons of spirits per calendar year.

U.S.C. The United States Code.

[T.D. ATF-198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. TTB-44, 71 FR 16933, Apr. 4, 2006]

PERMITS

§ 19.910 Application for permit required.

Any person wishing to establish an alcohol fuel plant shall first make application for and obtain an alcohol fuel producer's permit. The application for a permit will be on Form 5110.74. The application, in duplicate, will be submitted to the appropriate TTB officer. The description of stills on the approved application constitutes registration of stills as required by 27 CFR 196.45. Alcohol fuel producers' permits are continuing unless automatically terminated under § 19.920, suspended or revoked as provided in § 19.950, or voluntarily surrendered.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1355, as amended (26 U.S.C. 5179); sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.911 Criteria for issuance of permit.

In general, an alcohol fuel producer's permit will be issued to any person who completes the required application for permit and who furnishes the required bond (if any). However, the appropriate TTB officer may institute proceedings for the denial of the application, if the appropriate TTB officer determines that:

(a) The applicant (including, in the case of a corporation, any officer, director, or principal stockholder, and in the case of a partnership, a partner) is,

by reason of business experience, financial standing, or trade connections, not likely to maintain operations in compliance with 26 U.S.C. Chapter 51, or regulations issued thereunder; or

(b) The applicant has failed to disclose any material information required, or has made any false statement, as to any material fact, in connection with the application; or

(c) The premises on which the applicant proposes to conduct the operations are not adequate to protect the revenue. The procedures applicable to denial of applications are set forth in 27 CFR Part 71.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271); sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

§ 19.912 Small plants.

Persons wishing to establish a small plant shall apply for a permit as provided in this section. Except as provided in paragraph (c) of § 19.913, operations may not be commenced until the permit has been issued.

(a) *Application for permit.* The application (Form 5110.74) shall be submitted to the appropriate TTB officer and shall set forth the following information:

(1) Name and mailing address of the applicant, and the location of the alcohol fuel plant if not apparent from the mailing address;

(2) A diagram of the plant premises and a statement as to the ownership of the premises (if the premises are not owned by the proprietor, the owner's consent to access by appropriate TTB officers must be furnished);

(3) A description of all stills and a statement of their maximum capacity;

(4) The materials from which spirits will be produced; and

(5) A description of the security measures to be used to protect premises, buildings and equipment where spirits are produced, processed, and stored.

(b) *Bond.* No bond is required for small plants.

(Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))